

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NORTH CAROLINA
SOUTHERN DIVISION

No. 7:06-CV-60-F

WILLIAM K. LUMSDEN, Personal)
Representative of the Estate of Jamie)
Marie Lumsden, deceased; CANDACE)
MICHELLE LEE; MELANIE L. RITTER;)
MICHAEL M. CLARK; and WILLIAM)
B. WILSON,)
Plaintiffs,)
v.)
UNITED STATES OF AMERICA)
Defendant.)

ORDER

The Government's May 7, 2010, Motion [DE-76] for Extension of Time to File Response/Reply as to [DE-73] is DENIED. The court observes that the Government did not seek leave to file its own supplement to the record, entitled, "Notice of Additional Evidence for Consideration by the Court in Evaluating the Defendant's Response to Plaintiffs' Motion for Partial Summary Judgment" [DE-74]. Although the court recognizes that the substance of the Government's Notice favors the plaintiffs' position, to further delay adjudication of the pending dispositive motion to accommodate the Government's objection to the plaintiffs' similar proffer would be unfair. In light of the circumstances under which the plaintiffs' motion was filed and the rapidly approaching trial date, the court expected the Government's Response, if any, within 14 days of the motion. That deadline expired on May 6, 2010. The court may or may not consider an untimely response.

Both of the plaintiffs' Motions for Leave to Submit Newly Discovered Evidence [DE-73] and [DE-75.1] are ALLOWED. The Government will have a full opportunity to explain how the "newly discovered evidence" came to light and why it was not produced earlier when it responds

to the plaintiffs' motion seeking costs and other sanctions. [DE-75.2]. The court intends to conduct a hearing on that motion as soon as the criminal docket will allow.

SO ORDERED.

This the 20th day of May, 2010.



JAMES C. FOX
Senior United States District Judge